

# Notice of Allowability

Application No.

10/089,688

Examiner

Robert B. Mondesi

Applicant(s)

DUCKER ET AL.

Art Unit

1653

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to March 16, 2005.
2. ☒ The allowed claim(s) is/are 1-3, 9 and 13-15.
3. ☒ The drawings filed on 03 April 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard Lebovitz on May 17, 2005.

The application has been amended as follows:

In the first line of the specification on Page 1, Line 1, please insert the following sentence:

This application is a 371 of PCT/EP00/09475 filed September 28, 2000.

Please amend the claims accordingly:

**Claim 1 (Currently amended)** An isolated human polypeptide selected from the group consisting of:

- (a) an isolated polypeptide encoded by a polynucleotide comprising of SEQ ID NO:1;
- (b) an isolated polypeptide comprising a polypeptide sequence comprising at least 95% identity along its entire length to the polypeptide sequence of SEQ ID NO:2 and which is encoded by a polynucleotide which hybridizes to the complement of SEQ ID NO:1 under stringent hybridization conditions comprising overnight incubation at 42°C in a solution comprising: 50% formamide, 5xSSC (150mM NaCl, 15mM trisodium citrate), 50 mM sodium phosphate (pH7.6), 5x Denhardt's solution, 10 % dextran

Art Unit: 1653

sulfate, and 20 microgram/ml denatured, sheared salmon sperm DNA; followed by washing the filters in 0.1x SSC at 65°C, wherein said polypeptide has calcium binding activity;

- c) an isolated polypeptide comprising at least 95% identity along its entire length to the polypeptide sequence of SEQ ID NO:2 and which is encoded by a polynucleotide which hybridizes to the complement of SEQ ID NO:1 under stringent hybridization conditions comprising overnight incubation at 42°C in a solution comprising: 50% formamide, 5xSSC (150mM NaCl, 15mM trisodium citrate), 50 mM sodium phosphate (pH7.6), 5x Denhardt's solution, 10 % dextran sulfate, and 20 microgram/ml denatured, sheared salmon sperm DNA; followed by washing the filters in 0.1x SSC at 65°C, wherein said polypeptide has calcium binding activity; and
- d) the polypeptide sequence of SEQ ID NO:2.

Please cancel **claims 4-8 and 10-12.**

**Claim 14 (Currently amended)** The isolated polypeptide as claimed in claim 1, which is an isolated polypeptide comprising a polypeptide sequence comprising at least 95% identity along its entire length to the polypeptide sequence of SEQ ID NO: 2 and which is encoded by a polynucleotide which hybridizes to the complement of SEQ ID NO:1 under stringent hybridization conditions comprising overnight incubation at 42°C in a solution comprising: 50% formamide, 5xSSC (150mM NaCl, 15mM trisodium citrate), 50 mM sodium phosphate (pH7.6), 5x Denhardt's solution, 10 % dextran sulfate,

Art Unit: 1653

and 20 microgram/ml denatured, sheared salmon sperm DNA; followed by washing the filters in 0.1x SSC at 65°C, wherein said polypeptide has calcium binding activity.

**Claim 15 (Currently amended)** The isolated polypeptide as claimed in claim 1, which is an isolated polypeptide comprising at least 95% identity along its entire length to the polypeptide sequence of SEQ ID NO: 2 and which is encoded by a polynucleotide which hybridizes to the complement of SEQ ID NO: 1 under stringent hybridization conditions comprising overnight incubation at 42°C in a solution comprising: 50% formamide, 5xSSC (150mM NaCl, 15mM trisodium citrate), 50 mM sodium phosphate (pH7.6), 5x Denhardt's solution, 10 % dextran sulfate, and 20 microgram/ml denatured, sheared salmon sperm DNA; followed by washing the filters in 0.1x SSC at 65°C, wherein said polypeptide has calcium binding activity.

**Claim 16 (Cancelled)**

**Claim 17 (Cancelled)**

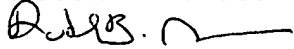
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Mondesi whose telephone number is 571-272-0956. The examiner can normally be reached on 9am-5pm, Monday-Friday.

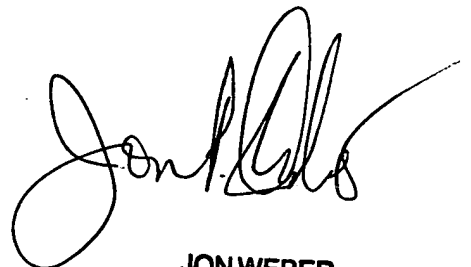
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert B. Mondesi

  
05-18-05



**JON WEBER**  
**SUPERVISORY PATENT EXAMINER**